ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intention to accept and consider an application for the award of a grant with time constraints to the American Drug Development, Inc. (ADD). The purpose of the grant is to provide the orphan drug, Sodium Phenylbutyrate, to children with three urea cycle disorders (deficiencies of carbamyl phosphate synthetase, ornithine transcarbamylase (OTC), and argininosuccinic acid synthetase) which, if not treated, are fatal to the patient. Competition is limited to ADD because ADD is the entity currently able to manufacture and supply Sodium Phenylbutyrate for the treatment of these disorders. ADD is also in the process of compiling documentation which will be submitted to FDA for approval of a new drug application (NDA) for Sodium Phenylbutyrate. Until the NDA is approved, this drug is not available to patients by any other means other than through a grant to ADD.

ADDRESSEES: An application form is available from, and completed applications should be submitted to: Maura C. Stephanos, Office of Contracts and Grants Management (HFA–520), Food and Drug Administration, Park Bldg., rm. 3–40, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6170.

NOTE: Applications hand-carried or commercially delivered should be addressed to the Park Bldg., rm. 3–40, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Maura C. Stephanos (address above).

Regarding the programmatic aspects of this notice: Carol A. Wetmore, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, rm. 8–73, Rockville, MD 20857, 301–443–4903.

SUPPLEMENTARY INFORMATION: FDA is announcing its intention to accept and consider an application for the award of a grant with time constraints to ADD, Baltimore, MD. FDA's authority to enter into grants for the development of drugs for rare diseases and conditions is set out in Section 5 of the Orphan Drug Act (21 U.S.C. 360ee). FDA's research program is described in the Catalog of Federal Domestic Assistance No. 93.103. Before entering into grants, FDA carefully considers the benefits that such grants will provide to the public.

ADD's application will undergo a peer review in accordance with the Public Health Service policies and procedures governing the review of grant applications with time constraints.

I. Background

For the past 8 years, FDA's Office of Orphan Products Development (OPD) has funded a clinical research grant for the treatment of urea cycle disorders with Sodium Phenylbutyrate. This grant expires September 30, 1994. Due to the life-threatening nature of urea cycle disorders, it is necessary to have a 3-month supply of the drug on hand in case possible problems in the purity and/or availability of the drug arise. For this reason, more drugs must be ordered by September 15, 1994, to ensure an adequate drug supply. ADD is able to immediately manufacture and supply the drug for the treatment of these disorders.

II. Mechanism of Support

A. Award Instrument

Support will be in the form of a grant. In 1994, the FDA estimate for this grant award is $ 750,000 (final amount will be negotiated). The award will be subject to all policies and requirements that govern the research grant programs of the Public Health Service (PHS), including the provision of 42 CFR part 52, 45 CFR part 74, and the PHS grants policy statement.

B. Length of Support

The length of support may be for 24 months with no possibility of additional noncompetitive support.

III. Reasons for Award With Time Constraints

FDA believes that there is a compelling need to award a grant to ADD based on time constraints because these urea cycle disorders are fatal if untreated. Also, FDA believes that ADD is uniquely qualified to fulfill the objectives of the proposed grant because it is able to immediately manufacture and supply Sodium Phenylbutyrate.

IV. Reporting Requirements

Program progress reports and financial status reports will be required annually, based on the date of award. These reports will be due within 30 days after the end of the budget period. A final program progress report and financial status report will be due 90 days after expiration of the project period of the grant.

V. Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Dated: August 24, 1994.

William K. Hubbard,

Interim Deputy Commissioner for Policy.

[FR Doc. 94–21281 Filed 8–29–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94E–0098]

Determination of Regulatory Review Period for Purposes of Patent Extension; Effexor®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Effexor® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants

permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Effexor® (venlafaxine hydrochloride). Effexor® is indicated for the treatment of depression. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Effexor® (U.S. Patent No. 4,535,186) from American Home Products Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 22, 1994, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Effexor® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the products's regulatory review period.

FDA has determined that the applicable regulatory review period for Effexor® is 2,959 days. Of this time, 1,981 days occurred during the testing phase of the regulatory review period, while 978 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective*: November 23, 1985. FDA has verified the applicant's claim that November 23, 1985, was the date the investigational new drug application (IND) became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* April 26, 1991. The applicant claims June 18, 1991, as the date the new drug application (NDA) for Effexor® (NDA 20–151) was initially submitted. However, FDA records indicate that NDA 20–151 was initaily submitted on April 26, 1991.

3. *The date the application was approved*: December 28, 1993. FDA has verified the applicant's claim that NDA 20–151 was approved on December 28, 1993.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 5 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before October 31, 1994, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before February 27, 1995, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 16, 1994.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 94–21287 Filed 8–29–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94E–0108]

Determination of Regulatory Review Period for Purposes of Patent Extension; Kytril™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Kytril™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Kytril™ (granisetron hydrochloride). Kytril™ is indicated for the prevention of nausea and vomiting associated with initial and repeat courses of emetogenic cancer therapy, including high-dose cisplatin. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Kytril™ (U.S. Patent No. 4,886,808) from Beecham Group p.l.c., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 22, 1994, FDA